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Paper No. 8

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OFFICE OF PETITIONS

In re Application of :  
Klippel, et al. :  
Application No.: 09/964,909 : ON PETITION  
Filed: September 26, 2001 :  
Attorney Docket No: **TRUC-0006/95-103-3** :

This is in response to the petition under 37 CFR 1.137(b) filed March 16, 2006.

The petition under 37 CFR 1.137(b) is granted.

On November 2, 2001, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an executed oath or declaration and \$65.00 surcharge. A proper reply was not received within the allowable period, and the application became abandoned on January 3, 2002. A Notice of Abandonment was mailed on October 29, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The executed declaration filed March 16, 2006, is noted and made of record.

Deposit account 23-3050 will be charged \$65.00 for the required surcharge.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

*Kenya A. McLaughlin*

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Petitions Attorney  
Office of Petitions